

(916) 445-3076

November 20, 1978

Dear Mr.

You requested our opinion on the status of property that would be placed under a voluntary easement to ensure its present use as a duck club in return for the Department of Interior furnishing water in perpetuity. You inquired whether such an arrangement would constitute a change of ownership or whether the agreement would possess the characteristics of a possessory interest. Our answer to both questions is no, assuming the facts are as stated below.

This type of arrangement has the characteristics of zoning and, therefore, may affect the value of the property when the highest and best use of the property to the agreement is greater than duck club use. As long as the highest and best use remains duck club use, there would be no change. We have taken the position that a change of zoning does not constitute a basis of reappraisal under Proposition 13. It would appear that Proposition 8 on the November ballot may cause us to modify that position in that down-zoning, causing a loss in value, could be recognized by the assessor. However, this last point is still under consideration and has not been acted upon by the members of the Board of Equalization.

Assuming the duck clubs are privately owned and are located on privately owned land, this arrangement would not constitute a possessory interest. The only way a possessory interest could be created is when the land is owned by the Department of Interior and this does not seem to be the case in your example.

I hope this answers your question.

Very truly yours,

Robert D. Milam
Tax Counsel

RDM:fr

cc: Prop. 13 Master File



230.0001

(916) 445-8900

April 12, 1978

Mr. R. L. Place
Supervising Auditor-Appraiser
Solano County Assessor's Office
Courthouse Annex
Fairfield, CA 94533

Dear Mr. Place:

Claim for Church Exemption on CF2280FN

Your memorandum of March 27, 1978, requested an opinion as to whether a 28 foot, fiberglass boat, berthed at Pierce Harbor, Benicia is eligible for the church exemption.

California Constitution, Article XIII, section 3(f), exempts:

Buildings, land on which they are situated,
and equipment used exclusively for religious
worship.

Revenue and Taxation Code section 206.1 extends the coverage to contiguous church parking areas. There is no constitutional or statutory provision that provides for the exemption of boats regardless of their use for religious worship.

No reasonable interpretation of the above section can be applied to a boat. The language is clear on its face and the origins of the section can be traced to the traditional church as it existed at the time of enactment. As a practical matter it would be impossible for the assessor to verify that a boat is exclusively used for religious worship.

It is our view that this claim should be denied.

Very truly yours,

James M. Williams
Tax Counsel

JMW:fp

cc: Mr. Vance Price

bc: Mr. Abram F. Goldman

Mr. Jack F. Eisenlauer (W. Grommet)